

REMARKS

In the Office Action dated May 19, 2006, the Examiner objected to the specification as containing new matter, noted an inconsistency between FIG. 3 in the provisional application and FIG. 3 as filed, along with the description of FIG. 3, rejected claims 1-7 for lack of enablement, rejected claims 1-7 for failure to comply with the written description requirement, rejected claims 12-18, 21 and 22 for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner further rejected claims 1-5, 12, 17 18, 21, 22, 36, 37, 39 and 50 as being anticipated by the prior art. Applicants provide the following remarks.

With respect to the objection to the specification, Applicant respectfully disagrees with the assertion that the amendment was new matter. The use of the term seam to describe embodiments that included the plates touching or not touching was shown and discussed throughout the specification and drawings. The amendment was made to counter an interpretation given to the term “seam” by the Examiner which was inconsistent with the manner in which the term was used in the application. However, as the term seam is no longer used in the claims, Applicant has removed the definition.

With respect to FIG. 3, Applicant has amended the figure to show a small space between the bolts and the two-by-four.

Paragraph 65 of the specification has been amended to refer to FIG. 3A, rather than FIG. 3. Applicant was unable to find any such reference in paragraph 69. Claims 32 and 33 have also been amended to clarify issues raised by the Examiner.

SECTION 112 REJECTIONS

Turning now to the rejections under 35 U.S.C. § 112, ¶ 1, Applicant respectfully traverses each rejection. With regard to the assertion that decelerating bullets is not supported by the original application, Applicant strongly disagrees and traverses the rejection. As an initial matter, Applicant disputes that the application teaches stopping the bullets with the metal plates rather than decelerating the bullets. Paragraph 1 notes twice that the invention involves the deceleration of bullets. Applicant was unable to find any support for the Examiner's contention that the application teaches exclusively stopping the bullets with the plates. Thus, Applicant requests the Examiner to support the assertion or withdraw the rejection. One of ordinary skill in the art will appreciate that the plates stop the bullet from traveling along a direct path, but generally do not bring the bullets to a complete stop. In fact, this is the very purpose of the bullet containment frame, which contains ricochets.

The Examiner's assertion that the specification supports stopping a bullet but not decelerating a bullet is also fundamentally flawed under basic principles of physics. Contrary to the Examiner's assertion, the velocity of the bullet is not zero when it impacts the plates. (By definition, a body with zero velocity cannot strike anything). Likewise, the time is not zero. In order to stop a moving body, it must be decelerated. In fact, stopping a moving body is nothing more than decelerating the body until the velocity is zero.

For example, a bullet may be traveling at a velocity of 1000 ft./sec. If the plates are able to stop the bullet in 100 µsec, the bullet would decelerate at 10,000,000 ft/sec.². Those of ordinary skill in the art will appreciate that the energy in the bullet is dissipated in several ways.

Some energy goes into heat, some is transferred into sound, some energy is consumed by deformation of the bullet and the movement and temporary deformation of the plate. Some energy carries bullet fragments away from the point of impact. Some aspects of the present invention help contain those fragments in a novel and non-obvious way.

Applicant also traverses the rejection under section 112, paragraph 1, in which the Examiner asserts that the neither the specification nor drawings show the keyholes (now amended to holes and slots) as being adjacent one another. The keyholes 134 and 138 are shown along the edges in FIG. 1. When the plates are brought together, the keyholes 134 and 138 are adjacent one another as shown in FIG. 2, 3, 4, 5 etc. In fact, paragraph 33 teaches:

To assemble the ballistic wall 100, the facing strip 112 and the backing strip 116 are placed so that holes 132 and 136 therein are in alignment with holes 134 and 138 on the plates. (To maintain simplicity in the drawings, only one hole on each plate is numbered. It will be understood that all of the holes are preferably in alignment, etc.).

If the holes 132 and 136 are in alignment with holes 134 and 138 in the plates, then the holes 134 and 138 are clearly adjacent to one another. The holes 132 in the facing strip and 136 are shown in pairs, and the bolts passing therethrough would hold the holes 134 and 138 next to each other (i.e. adjacent one another).

Applicant also traverses the Examiner's construction of the term keyhole. A keyhole is a shape which is well know and used as a descriptor in dozens of patents. (See e.g. U.S. Pat. Nos. 7,017,847; 7,043,871 and 7,017,239). The shape is clearly shown in the drawings and one of original skill in the art would understand the meaning of the term. However, to avoid further

delay in issuance of this application (which has been pending nearly 3 years), Applicant has amended the claims.

Applicants likewise submit that claims 12-18 were well supported and worded so as to be understood by one of ordinary skill in the art. However, to expedite issuance of the patent, Applicants have amended the claims to reword the language objected to.

Claims 21-22 have been amended to more specifically identify the relationship of the arm and the other elements. Applicant has removed language objected to by the Examiner.

Applicant believes that the language was proper and read on FIG. 3, but has removed the language to expedite examination. Applicant asserts that claim 21 is generic for many figures including figures 3, 4, and 5 as it describes the structures therein. Applicant notes that whether the arm is permanently or removeably attached to the facing strip or formed thereon is a matter of design and all are encompassed in the present invention as shown by the figures.

Additionally, ballistic walls are often exposed to bullets on both sides of the wall, and facing strips and backing strips are thus often similar in structure and the distinction therebetween is often a point of reference and determined by which side of a wall an observer is standing on. As such, the arms are used with either facing or backing strips and used on either or both sides of the wall.

SECTION 102 REJECTIONS

The Examiner rejected claim 1 as being unpatentable over Gonzalez, Caswell, and FIG. 3A. Applicant traverses each rejection. None of the references cited by the examiner teach use

of a keyhole, or a hole in the plate connected to an edge of the plate by a slot. Thus, claim 1 is allowable over each of the references.

Claims 2-3 is allowable as it depends from claim 1, Furthermore, Gonzalez does not teach a containment frame. The structure identified by the Examiner is taught as being a vehicle body. (See Col.; 2, l. 23). The Examiner has made no showing that a body panel of a vehicle covered with armor plating would act as a bullet containment frame. To the contrary, a double layer of steel would cause ricochets.

Claim 4 is allowable over the prior art as none of the prior art teaches using a mounting bracket to attach the bullet containment frame to the facing strip. In Gonzalez, the “arm/mounting brackets 26” do not attach the “bullet containment frame 10” to the “facing strip 14”. Rather, 26 is on the opposite side of 10 from 14. Furthermore, item 14 is identified as being a “seam” (Col. 2, l. 29-30). In Caswell, “mounting bracket 18” does not connect the “bullet containment frame 36” (which is defined in Caswell as a receptacle, Col. 2, l. 65) to the “facing strip 18”. Furthermore, Caswell does not meet the limitations of Claim 1.

Claim 5 is allowable, as Caswell does not teach the bolts extending through the facing strip and the mounting bracket.

Claims 6-7 were not rejected based on the prior art and are thus believed to be allowable.

Claim 12 has been amended to make apparent what was meant by the term independent.. Gonzalez clearly does not teach each element of Claim 12, as the bolts in Gonzalez hold everything together.

Caswell clearly does not teach the elements of Claim 12. The “facing strip 18” identified by the Examiner clearly does not clamp against the metal plates 10 and 11. Likewise, there are

no bolts that extend through both the mounting bracket and the facing strip as defined by the Examiner.

Claims 13-16 are believed to be allowable, as no art based rejections were provided.

Claims 17-18 are allowable over Caswell. Claim 17 depends from Claim 1 and is therefore allowable. With respect to claim 18, the Examiner has failed to show the mounting bracket as having a U-shaped cross-section. Item 28 in Caswell is L-shaped..

Claims 21 and 22 are patentable over Gonzalez because Gonzalez lacks a bullet containment frame as defined in the claim. It also lacks the arm and frame being attached by a plurality of fasteners. Claim 21 is allowable over Caswell because the “facing strip” identified by the Examiner does not cover the edges of the first and second metal plates. Furthermore, the “bullet containment frame” identified by the Examiner is not attached to the arm, nor does it use sheets of material.

FIG. 3A does not use an arm clearly does not include the elements of claim 21, as the wood is not attached to the arm by a plurality of fasteners.

Thus, claims 21 and 22 should be allowed.

Claims 36 and 37 are patentable over FIG. 3A. Claim 3A does not use an intervening structure to attach the wood to the attachment mechanism.

Claim 39 is patentable over Caswell and FIG. #A. Caswell does not teach veering the metal plates with a bullet containment frame. FIG. 3A does not teach bolts which do not extend into the bullet containment frame.

Claim 50 is allowable over Gonzalez because Gonzalez lacks the sheets of material for inhibiting ricochets, nor does it teach using the mounting brackets to space the sheets of material

from the facing strip. As identified by the Examiner, in Gonzalez, the sheets of material are closer to the facing strip than is the mounting bracket.

Caswell lacks sheets of material for inhibiting ricochets. The structures identified by the Examiner are targets. Moreover, the "mounting brackets 28" are disposed on the opposite side of the trap from the "facing strip 18" and do not space the containment frame 36 or the ricochet inhibiting sheets 48, 65, 66 from the facing strip.

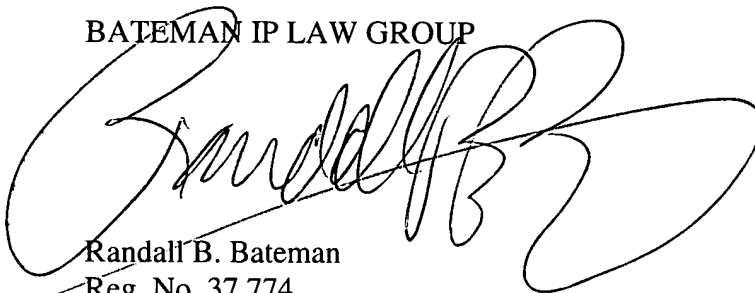
New claims 53-56 are added to further define the invention. Because claim 38 was indicated as being allowable, claims 54-56 properly depend from a generic claim.

Counsel requests that the Examiner call Randall B. Bateman at (801) 533-0320 regarding any further concerns with the application.

The Commissioner is hereby authorized during the entire pendency of this application to credit any overpayment and debit any amount owing, including fees for extensions of time, to Deposit Account No. 50-2720.

Sincerely,

BATEMAN IP LAW GROUP

A large, stylized handwritten signature in black ink, appearing to read "Randall B. Bateman", is written over the printed name and address.

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IN THE DRAWINGS

Please replace FIG. 3 previously filed with the enclosed FIG. 3.